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MANAGEMENT BULLETIN

<p>SUBJECT</p> <p>Sexual Harassment in the Workplace</p>	<p>ADMINISTRATIVE MANUAL REFERENCE</p> <p>07300, 07400 and 07500</p>	<p>APPROVED BY</p> <p>CHIEF DEPUTY ATTORNEY GENERAL ADMINISTRATION AND POLICY</p>
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SUPERSEDES MANAGEMENT BULLETIN 91-29

The purpose of this Management Bulletin is to set forth the Department of Justice's (Department) policy prohibiting sexual harassment. Related Management Bulletin: Discrimination Complaint Procedures.

ZERO TOLERANCE POLICY

It is the policy of the Department to provide all employees with a safe, harassment-free work environment. All employees are expected to behave professionally and respectfully while interacting with others without regard to classification, job title, or function. Discriminatory and/or harassing conduct will not be tolerated. Any such behavior that does occur will be immediately addressed and appropriate corrective action will be taken.

Sexual harassing conduct constitutes a violation of Title VII of the Federal Civil Rights Act (Title 42, U.S. C. § 2000) and the California Fair Employment and Housing Act (FEHA) (Gov. Code §12940, et. seq.).

Departmental policy requires that all employees assume responsibility to maintain a work environment free from such conduct.

DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is defined as unsolicited and unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or a condition of employment;
- Submission to or rejection of such conduct by an employee is used as a basis for employment decisions affecting the employee; or,
- Such conduct has the purpose or effect of substantially interfering with an employee's work performance or creating an intimidating, hostile, or otherwise offensive working environment.

EXAMPLES OF SEXUAL HARASSMENT

The following are some general examples of behavior which *may* constitute sexual harassment:

Verbal: Sexual derogatory comments, slurs, jokes, remarks, or epithets.

- Visual: Leering, making sexual gestures, or displaying sexually suggestive objects, pictures, cartoons, or posters.
- Physical: Physical conduct such as impeding or blocking someone's movement, or touching someone. More severe examples of physical conduct include assault, rape, attempted rape.
- Other: Sexual advances that are unwanted (this may include situations which began as reciprocal relationships, but which later ceased to be reciprocal) and employment benefits granted in exchange for sexual favors.

Sexual harassment occurs when an employee exerts authority over another employee in return for sexual favors, or retaliates when the sexual favor is not granted. Personal relationships which occur between supervisors and subordinates and which are initially consensual may progress into this fact pattern and, consequently, should be avoided.

Implying or actually withholding support for an appointment, promotion, transfer, or change of assignment; or initiating a rejection on probation or adverse action; or suggesting that a poor performance report will be prepared if requests for sexual favors are not met.

Obvious and straightforward sexual harassment arises when one exerts authority over someone in return for sexual favors, or retaliates when the favor is not granted. Supervisor-employee relationships which are initially consensual frequently progress into this fact pattern and, consequently, should be avoided.

Reprisals or threats after negative responses to sexual advances.

DEPARTMENTAL RESPONSIBILITIES

The Department is legally responsible for any sexually harassing conduct of managers and supervisors, and for the sexually harassing conduct of co-employees if it knew or should have known of such conduct and failed to take timely and appropriate action to end the conduct. The Department's liability may be minimized by demonstrating that all reasonable steps were taken by the victim's manager or supervisors to prevent the sexually harassing conduct from occurring.

POLICY MAINTENANCE

To ensure that all employees are informed of the Department's zero tolerance Sexual Harassment Policy, and as a preventative measure, all managers and supervisors are required to facilitate sexual harassment prevention discussions with their staff twice per year. Division Chiefs and Directors must ensure that such discussions are taking place by forwarding a summary of their discussions to the Affirmative Action/Equal Employment Opportunity (AA/EEO) Office twice per year. Copies of the Attorney General's Sexual Harassment Policy Statement and a sexual harassment prevention training video tape can be used in conjunction with staff discussions. These materials are available by contacting the AA/EEO Office, the Advanced Training Center (ATC), and/or your office managers.

Managers and supervisors should seek training in this area routinely. The AA/EEO Office staff is available to provide technical assistance on the Department's complaint procedures when needed.

PROCEDURES

There are two departmental processes by which an employee may file a complaint of sexual harassment. It should be noted that a complaint of sexual harassment cannot be withdrawn by the complainant. The informal and the formal processes are as follows:

Informal/ Counseling Process	Employees who believe they are or have been the victim of sexual harassment should immediately report the incident to their supervisor or an Equal Employment Opportunity (EEO) Counselor. If the alleged subject is also the employee's supervisor, he/she may contact the unit manager or an EEO Counselor. The Informal process takes up to 15 working days. If an EEO Counselor is notified of a discrimination complaint allegation, he/she is required to inform the Equal Employment Opportunity Coordinator at 916/227-3890 or the AA/EEO Office at 916/324-5482.
Formal/ Investigative Process	Employees may file a written complaint directly with the Department's AA/EEO Office to initiate a formal investigation. The formal process may take up to 180 days.

OUTSIDE AGENCIES

An employee may file a complaint of sexual harassment concurrently with the following four outside agencies:

DFEH	Employees may file with the California Department of Fair Employment and Housing (DFEH) within 365-days of the alleged incident.
EEOC	Employees may file with the Federal Equal Employment Opportunity Commission (EEOC) within 300-days of the alleged incident.
SPB	<p>A discrimination complaint may be filed directly with the State Personnel Board. Refer to the Management Bulletin #99-04, entitled <i>Discrimination Complaint Procedures</i> for further information.</p> <p>The adverse action process is handled by the DOJ Personnel Office. Charges of discrimination made in connection with an adverse action are generally addressed within that process.</p>
U.S Dept. of Justice	Employees may file with their nearest U. S. Department of Justice, Office of Civil Rights or Civil Rights Division in Washington, D.C.

RELATED MANAGEMENT BULLETINS AND OTHER INFORMATION

The Department's procedures for the resolution of sexual harassment complaints are the same as for all other complaints of discrimination. A Management Bulletin entitled *Discrimination Complaint Procedures, #99-04*, has been made available to all employees and provides information on the informal and formal procedures in more detail. Management Bulletins and other information related to discrimination complaint issues may be obtained from your supervisor or the following office locations:

Affirmative Action/Equal Employment
Opportunity Office
1300 I Street, Room 1330
Sacramento, CA 95814
8-454-5482 or (916) 324-5482

Equal Employment Opportunity Office
4949 Broadway, Room D214
Sacramento, CA 95822
8-498-3890 or (916) 227-3890

If hearing impaired, call the California Relay Service at: 1-800-735-2929 (From TDD* Phone)
1-800-735-2922 (From Voice Phone)

*TDD is a Telecommunication Device for the Deaf and is reachable only from a telephone equipped with a TDD device.